

HB 1123 - S COMM AMD

By Committee on Natural Resources, Ocean & Recreation

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 79.105.210 and 2005 c 155 s 143 are each amended to
4 read as follows:

5 (1) The management of state-owned aquatic lands shall preserve and
6 enhance water-dependent uses. Water-dependent uses shall be favored
7 over other uses in state-owned aquatic land planning and in resolving
8 conflicts between competing lease applications. In cases of conflict
9 between water-dependent uses, priority shall be given to uses which
10 enhance renewable resources, water-borne commerce, and the navigational
11 and biological capacity of the waters, and to statewide interests as
12 distinguished from local interests.

13 (2) Nonwater-dependent use of state-owned aquatic lands is a low-
14 priority use providing minimal public benefits and shall not be
15 permitted to expand or be established in new areas except in
16 exceptional circumstances where it is compatible with water-dependent
17 uses occurring in or planned for the area.

18 (3) The department shall consider the natural values of state-owned
19 aquatic lands as wildlife habitat, natural area preserve,
20 representative ecosystem, or spawning area prior to issuing any initial
21 lease or authorizing any change in use. The department may withhold
22 from leasing lands which it finds to have significant natural values,
23 or may provide within any lease for the protection of such values.

24 (4) The power to lease state-owned aquatic lands is vested in the
25 department, which has the authority to make leases upon terms,
26 conditions, and length of time in conformance with the state
27 Constitution and chapters 79.105 through 79.140 RCW.

28 (5) The authority to lease as provided in chapters 79.105 through
29 79.140 RCW includes the authority to issue other lesser contractual
30 arrangements including but not limited to easements, licenses, permits,

1 and rights-of-entry, unless the context clearly dictates otherwise.
2 When the department's authority to lease is restricted or prohibited,
3 the department's authority to issue other lesser contractual
4 arrangements, including but not limited to easements, licenses,
5 permits, and rights-of-entry, is similarly restricted or prohibited.

6 (6) State-owned aquatic lands shall not be leased to persons or
7 organizations which discriminate on the basis of race, color, creed,
8 religion, sex, age, or physical or mental handicap.

9 **Sec. 2.** RCW 79.120.040 and 2005 c 155 s 404 are each amended to
10 read as follows:

11 If the United States government (~~(has established pierhead lines~~
12 ~~within a waterway created under the laws of this state at any distance~~
13 ~~from the boundaries established by the state, structures may be~~
14 ~~constructed in that strip of waterway between the waterway boundary and~~
15 ~~the nearest pierhead line only with the consent of the department and~~
16 ~~upon such plans, terms, and conditions and for such term as determined~~
17 ~~by the department. — However, no permit)), under its regulatory
18 authority over navigable waters, has authorized structures within
19 waterways, or has determined that no federal authorization is necessary
20 for the structures, those structures may be constructed only with the
21 consent of the department and upon those plans, terms, and conditions
22 and for such a term as determined by the department. However, no
23 permit shall extend for a period longer than thirty years.~~

24 The department may cancel any permit upon sixty days' notice for a
25 substantial breach by the permittee of any of the permit conditions, or
26 if the waterway is required for public highway purposes.

27 If a waterway is within the territorial limits of a port district,
28 the duties assigned by this section to the department may be exercised
29 by the port commission of the port district as provided in RCW
30 79.105.420.

31 Nothing in this section shall confer upon, create, or recognize in
32 any abutting owner any right or privilege in or to any strip of
33 waterway abutting any street and between prolongations of the lines of
34 the street, but the control of and the right to use the strip is
35 reserved to the state of Washington, except as authorized by RCW
36 79.105.420.

1 **Sec. 3.** RCW 79.105.430 and 2005 c 155 s 106 are each amended to
2 read as follows:

3 (1)(a) The abutting residential owner to state-owned shorelands,
4 tidelands, or related beds of navigable waters, other than harbor
5 areas, may install and maintain without charge a dock on the areas if
6 used exclusively for private recreational purposes and the area is not
7 subject to prior rights, including any rights of upland, tideland, or
8 shoreland owners as provided in RCW 79.125.400, 79.125.460, 79.125.410,
9 and 79.130.010. ((The))

10 **(b) In exercising rights provided by (a) of this subsection,**
11 **abutting residential owners may, and are encouraged to, join together**
12 **and install and maintain one joint use dock instead of multiple**
13 **individual docks, in order to reduce the number of over-water**
14 **structures on aquatic lands. Up to nine abutting residential owners**
15 **may jointly install and maintain a joint use dock, without charge, for**
16 **recreational moorage of their boats.**

17 **(c) An abutting residential owner may moor no more than one boat**
18 **without charge at either: (i) An individual dock pursuant to (a) of**
19 **this subsection; or (ii) a joint use dock pursuant to (b) of this**
20 **subsection.**

21 **(d) A dock cannot be sold or leased separately from the upland**
22 **residence(.** ~~The dock cannot~~) **or** be used to moor boats for commercial
23 or residential use. This permission is subject to applicable local,
24 state, and federal rules and regulations governing location, design,
25 construction, size, and length of the dock. Nothing in this subsection
26 (1) prevents the abutting owner from obtaining a lease if otherwise
27 provided by law.

28 (2) The abutting residential owner to state-owned shorelands,
29 tidelands, or related beds of navigable waters, other than harbor
30 areas, may install and maintain a mooring buoy without charge if the
31 boat that is moored to the buoy is used for private recreational
32 purposes, the area is not subject to prior rights, including any rights
33 of upland, tideland, or shoreland owners as provided in RCW 79.125.400,
34 79.125.460, 79.125.410, and 79.130.010, and the buoy will not obstruct
35 the use of mooring buoys previously authorized by the department.

36 (a) The buoy must be located as near to the upland residence as
37 practical, consistent with applicable rules and regulations and the

1 provisions of this section. The buoy must be located, or relocated if
2 necessary, to accommodate the use of lawfully installed and maintained
3 buoys.

4 (b) If two or more residential owners, who otherwise qualify for
5 free use under the provisions of this section, are in dispute over
6 assertion of rights to install and maintain a mooring buoy in the same
7 location, they may seek formal settlement through adjudication in
8 superior court for the county in which the buoy site is located. In
9 the adjudication, preference must be given to the residential owner
10 that first installed and continually maintained and used a buoy on that
11 site, if it meets all applicable rules, regulations, and provisions of
12 this section, and then to the owner of the residential property nearest
13 the site. Nothing in this section requires the department to mediate
14 or otherwise resolve disputes between residential owners over the use
15 of the same site for a mooring buoy.

16 (c) The buoy cannot be sold or leased separately from the abutting
17 residential property. The buoy cannot be used to moor boats for
18 commercial or residential use, nor to moor boats over sixty feet in
19 length.

20 (d) If the department determines that it is necessary for secure
21 moorage, the abutting residential owner may install and maintain a
22 second mooring buoy, under the same provisions as the first, the use of
23 which is limited to a second mooring line to the boat moored at the
24 first buoy.

25 (e) The permission granted in this subsection (2) is subject to
26 applicable local, state, and federal rules and regulations governing
27 location, design, installation, maintenance, and operation of the
28 mooring buoy, anchoring system, and moored boat. Nothing in this
29 subsection (2) prevents a boat owner from obtaining a lease if
30 otherwise provided by law. This subsection (2) also applies to areas
31 that have been designated by the commissioner or the fish and wildlife
32 commission as aquatic reserves.

33 (3) This permission to install and maintain a recreational dock or
34 mooring buoy may be revoked by the department, or the department may
35 direct the owner of a recreational dock or mooring buoy to relocate
36 their dock or buoy, if the department makes a finding of public
37 necessity to protect waterward access, ingress rights of other
38 landowners, public health or safety, or public resources.

1 Circumstances prompting a finding of public necessity may include, but
2 are not limited to, the dock, buoy, anchoring system, or boat posing a
3 hazard or obstruction to navigation or fishing, contributing to
4 degradation of aquatic habitat, or contributing to decertification of
5 shellfish beds otherwise suitable for commercial or recreational
6 harvest. The revocation may be appealed as provided for under RCW
7 79.105.160.

8 (4) Nothing in this section authorizes a boat owner to abandon a
9 vessel at a recreational dock, mooring buoy, or elsewhere."

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10 On page 1, line 2 of the title, after "lands;" strike the remainder
11 of the title and insert "and amending RCW 79.105.210, 79.120.040, and
12 79.105.430."

EFFECT: Provides that DNR's authority to issue lesser contractual
arrangements is also restricted or prohibited when the department's
authority to lease is restricted or prohibited.

Authorizes up to nine residential landowners abutting aquatic lands
to jointly install and maintain a recreational dock without charge.
Limits such a landowner to moorage of one boat without charge at either
an individual dock or a joint use dock.

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